FREQUENTLY ASKED QUESTIONS ABOUT ISOLATION AND QUARANTINE

Massachusetts Department of Public Health

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GENERAL INFORMATION

What is the historical context for isolation and quarantine?

Throughout history, medical and public health personnel have contended with disease and outbreaks, and developed isolation and quarantine to lessen morbidity (disease) and mortality (death) through reduction of transmission of infectious organisms. The moral authority for isolation and quarantine is historically based on the "public health contract," under which individuals agree to forgo certain rights and liberties, if necessary, to prevent a significant risk of illness to others. Large-scale quarantine was quite common during the epidemics of the 19th and first half of the 20th centuries. Although familiarity with large-scale isolation and quarantine has faded, isolation and quarantine is used routinely in Massachusetts to control the spread of communicable diseases. The threat of bioterrorism and emerging diseases has raised issues as to how to implement quarantine in the context of modern human rights and liberties.

How are isolation and quarantine defined?

Isolation refers to separating **people who are ill** from other people to prevent the spread of a communicable disease. Isolation is defined in the Massachusetts Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements (105 Code of Massachusetts Regulations [CMR] 300.000) as follows: "Separation, for the period of communicability, of infected persons from others in such places and under such conditions as will prevent the direct or indirect transmission of an infectious agent to susceptible people or to those who may spread the agent to others."

Examples**:** Isolation is used routinely when ill food handlers are excluded from work or from food handling responsibilities due to hepatitis A, salmonellosis, and shigellosis.

Infectious tuberculosis (TB) patients may need to be isolated from vulnerable persons at risk for becoming infected with TB.

Quarantine refers to separating and restricting the movement of **people who have been exposed** to a communicable disease and are not yet ill—these people are often referred to as "contacts" of the person who is known or presumed to be infected and infectious. (Animals who may have been exposed to certain diseases may also be quarantined.) Quarantine is defined in the Massachusetts Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements (105 CMR 300.000) as follows: "Restricting the freedom of movement of well persons or domestic animals who have been exposed to a communicable disease for a period of time related to the usual incubation period of the disease, in order to prevent effective contact with those not so exposed."

Example: Food handlers who are <u>contacts</u> of individuals with hepatitis A, salmonellosis, and shigellosis may be quarantined (excluded from work or from food-handling responsibilities) until certain criteria are met.

When are isolation and quarantine used?

For some communicable diseases, isolation and quarantine are used routinely in Massachusetts. For example, ill individuals and their contacts are removed from food handling responsibilities because of communicable disease risk. Another example is a school child with pertussis excluded from school for a certain period of time. Certain infectious diseases that are not transmitted person-to-person, such as tetanus or Lyme disease, have no isolation and quarantine requirements. Laws and regulations are in place to define diseases as dangerous to the public health and to establish reporting, and isolation and quarantine requirements. Isolation and quarantine are usually initiated by those who are responsible for protecting the public health, including health care providers, public health nurses, health directors, school nurses, emergency medical technicians, etc.

What are the laws that govern isolation and quarantine?

Federal, state and local public health agencies are responsible for protecting the health of citizens. They have legal and regulatory authority to define dangerous diseases; investigate disease outbreaks; and isolate and quarantine people and animals if necessary to control the spread of disease. Developing local ordinances and regulations addressing these issues may be helpful in local communicable disease control.

Listed below is a partial list of Massachusetts laws and regulations that pertain to isolation and quarantine. A more comprehensive list is available from the Massachusetts Department of Public Health (MDPH), Division of Epidemiology and Immunization. You can call (617) 983-6800 to request a copy or go the MDPH website at www.mass.gov/dph/cdc/epii/reportable/reportable.htm. For laws, regulations, and policies relating to least restrictive measures and isolation of TB patients call the Division of Tuberculosis Prevention and Control at (617) 983-6970.

Massachusetts General Law (M.G.L):
Chapter 111: Public Health

- Section 6: Power to define diseases deemed dangerous to public health; control and prevention
- Section 7: Investigation of contagious or infectious diseases; notice
- Section 79: Admissions and discharges of tuberculosis patients
- Section 94A: Certification of non-hospitalized persons afflicted with active tuberculosis; examination. Transportation; release
- Section 94B: Detention of patient at sanatorium; petition; transfer to tuberculosis treatment center; release
- Section 94C: Court commitment to tuberculosis treatment center; procedure; notice and hearing
- Section 94D-H: Sections relating to the tuberculosis treatment center and patient rights
- Section 95: Powers and duties of local boards of health in cases of disease dangerous to the public health
- Section 96: Warrants to remove persons infected with dangerous disease
- Section 97: Removal of patient from home where patient cannot be isolated
- Section 104: Board of health must use care to prevent spread of dangerous disease and may give public notice of infected places
- Section 111: Reporting of dangerous diseases to local boards of health

Chapter 111D (Clinical Laboratories): Section 6: Reports to MDPH by clinical laboratories of infectious disease found in examination of specimens

Massachusetts Regulations: 105 CMR 300.000: Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements

Are isolation and quarantine voluntary?

Isolation and quarantine are usually voluntary. Most people readily understand the need for isolation and quarantine. However, people who are ill with a communicable disease and people who have been exposed to a communicable disease may be legally compelled into isolation or quarantine if they refuse to do so voluntarily.

Who is responsible for enforcement?

The local board of health, in conjunction with other local authorities, is responsible for enforcing isolation and quarantine. Local boards of health should develop relationships and formal agreements with local law enforcement, courts, hospitals, schools and emergency medical services concerning the implementation and enforcement of isolation and quarantine. The MDPH has coordinate authority with local boards of health and is available to provide assistance or consultation when requested.

A process and procedure is already in place to involuntarily hospitalize non-cooperative patients with active tuberculosis in a communicable form. The local public health authorities pursuant to MGL c. 111, § 94A can petition the MDPH, Division of Tuberculosis Prevention and Control for the patient's involuntary hospitalization to the state tuberculosis treatment center, called the Tuberculosis Treatment Unit, at Lemuel Shattuck Hospital. Please call the Division of TB Prevention and Control (617-983-6970) for procedures and forms.

LOCAL BOARD OF HEALTH-RELATED

Should local boards of health pass their own isolation/quarantine regulations?

The MDPH recommends that local boards of health consider passing their own regulations, however it is not mandatory. A model ordinance has been created by the MDPH, or a board of health can create its own. The advantage is that a local regulation will set forth clearly the legal procedures that will be used, and this will benefit both the local population and local health authorities. Additionally, a court will uphold local regulations as long as they are reasonable.

Who can answer local board of health legal questions?

The town attorney or city solicitor is the best resource to answer legal questions about isolation and quarantine.

How long does isolation and quarantine last?

It depends on the disease. The time frame for isolation of the ill individual is usually defined in relation to the period of communicability of a disease—that is, the ill person would be isolated while infectious. Time frames for quarantine are usually defined in relation to the incubation period of a communicable disease—that is, the contact would be quarantined until it is clear that he or she is not developing the disease and becoming infectious.

Minimum periods of isolation and quarantine for reportable diseases are listed in 105 CMR 300.000. Using hepatitis as an example:

Disease	Minimum Period of Isolation of Patient	Minimum Period of Quarantine of Contacts
Hepatitis A	Until one week after onset of symptoms or until end of febrile period, whichever is later.	No restrictions except for susceptible food handling employees, who shall be excluded from their occupations for 28 days unless they receive a prophylactic dose of Immune Globulin (IG) within 14 days of first exposure.

Where do isolation and quarantine occur?

Isolation can be in a hospital, at home, or other living arrangement, depending on severity of illness, medical needs of the person and available facilities. Quarantine usually occurs at home. In rare situations large groups may need to be isolated or quarantined in facilities temporarily established for mass isolation and quarantine.

What happens if someone refuses to comply with isolation or quarantine?

An individual who refuses to comply voluntarily with isolation or quarantine may be subject to a written isolation or quarantine order issued by the board of health or MDPH. If the person still refuses to comply and poses a dire and immediate threat to public health, the town attorney and/or MDPH attorney should be contacted to discuss whether the facts justify taking the person into custody and isolating or quarantining him against his will, usually via a court order.

For non-cooperative, infectious TB patients residing in local communities, the local public health authorities petition the MDPH, Division of Tuberculosis Prevention and Control and ask that the patient be involuntarily hospitalized at the Tuberculosis Treatment Unit at Lemuel Shattuck Hospital.

Is there protection legally for a health agent from being sued by a person forced into isolation or quarantine?

The Massachusetts Tort Claims Act, M.G.L. c. 258, protects government employees from personal liability for negligent acts they commit, so long as they were acting within the scope of their jobs. In such a lawsuit, the public employee would be represented by the attorney for the public employer (i.e., the Attorney General's office in the case of a state employee, or the city solicitor/town counsel in the case of a municipal employee). Liability is very unlikely to be found if the employee acted reasonably and according to specified procedures. If liability for negligence were found, the public employer and not the employee would pay any damages.

RIGHTS OF INDIVIDUALS

What about the rights of the individual?

Isolation and quarantine are usually undertaken voluntarily. Forced isolation and quarantine should only be the last resort after education has failed. Isolation and quarantine requirements should be as minimally intrusive as possible. When considering options for isolation and quarantine, the "least restrictive measure" sufficient for disease control should be employed. All measures should be in

keeping with the legal requirements for due process. If forced isolation and quarantine is necessary, in most cases a court order will be required before the person can be moved or confined.

What are "least restrictive measures"?

"Least restrictive measures" or the "least restrictive alternative" refers to an effective public health measure that is least restrictive of individual freedom. In other words, health authorities should implement the least restrictive policy that achieves the goal of public health protection. For example, one disease may only require exclusion from work or school and the individual can carry out other activities, while another disease may require exclusion from the general population. In another situation, isolation at home may work in one case as a least restrictive measure, but in another, isolation in a hospital might be required to assure the public's safety. Isolation and quarantine measures are outlined in 105 CMR 300.000: Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements. Additionally, epidemiologists from MDPH, Division of Epidemiology and Immunization are available for consultation at (617) 983-6800.

See 105 CMR 365.000 for management of TB patients in non-hospital settings, and 105 CMR 365.200 regarding least restrictive measures for TB patients.

How are least restrictive measures applied in a home isolation case and what happens when they don't work?

First, the person would be educated and counseled by a health care provider, and in most cases would receive a letter from the local board of health or MDPH directing him/her to remain at home and to follow certain treatment and infection control guidelines. Second, if the person does not cooperate with these guidelines, the local board of health or MDPH would issue a written legal order for home isolation that would warn the person that failure to comply might result in the issuance of an emergency court order. The local board of health would monitor the person's compliance through telephone calls, home visits, etc. Third, if the person refuses to comply with the order to stay home, the local board of health and MDPH would apply for a court order authorizing them (through the local police) to remove the person to a hospital or other facility.

TB is unique in that while it has a relatively short infectious or communicable stage, treatment requires a 6-to-12 month regimen of antibiotic therapy. TB patients are generally isolated and treated in a home or hospital during their infectious stage. Isolation is discontinued when the patient is no longer infectious. Generally, as long as the patient continues treatment, there is no need for home isolation. Involuntary hospitalization is sought only when a patient demonstrates an unwillingness or inability to complete treatment via least restrictive measures, such as Directly Observed Therapy. See 105 CMR 365.200 for least restrictive measures for TB patients**.**

What kinds of support are needed by people who are isolated or quarantined?

Isolation and quarantine can be traumatic. People may be forced to leave their jobs without compensation. They may be separated from family. They may experience a lot of stress associated with social isolation or the threat of illness. They may not have family or friends to assist them with obtaining food or other necessities. Local resources such as crisis counseling, food pantries, emergency childcare, emergency pet care and volunteer disaster relief can help minimize the trauma.

LEGAL PROCESS

Who actually issues the isolation and/or quarantine order?

Local boards of health or their agents, local health directors, the Commissioner of Public Health, the Governor and the United States Surgeon General are examples of those who may issue isolation and/or quarantine orders. The order is usually based on well-understood protocols for controlling the spread of infectious disease. Public health nurses and other local health representatives provide isolation and quarantine guidance routinely in their work involving communicable diseases in restaurant employees, daycare staff, schools, health care workers, and other groups. A court order may be necessary if individuals refuse to comply with isolation and quarantine. Your town's attorney should be able to provide assistance with regard to required paperwork and the process for obtaining a court order.

What are the steps to take to obtain a court order for isolation or quarantine?

The MDPH has recently developed a number of legal documents to be used by local boards of health and attorneys for the purposes of enforcing isolation and quarantine **for diseases other than TB**. These documents are available on a CD-ROM. A copy can be requested by calling the MDPH, Division of Epidemiology and Immunization at (617) 983-6800. Steps to obtain a court order are included.

Call the Division of Tuberculosis Prevention and Control (617-983-6970) for procedures relating to isolating infectious TB patients.

Should a person refusing to comply with an isolation and/or quarantine order be represented by an attorney in court?

It is best if the person is represented by an attorney, although at the stage of obtaining a temporary restraining order (TRO) **in cases of disease other than TB**, the local board of health and MDPH may if necessary proceed on their own (ex parte). At the stage of the preliminary injunction hearing, 10 days after the TRO, the person must be represented by an attorney.

The law governing long-term isolation of infectious TB patients, M.G.L. c. 111, § 94C**,** has provisions for independent medical evaluations, court hearings, and legal counsel.

What happens after the local board of health and MDPH get the court order?

For diseases other than TB, the local health official would go to the person's house with the law enforcement officer who has been ordered to serve the court order, along with the local Emergency Medical Services (EMS) provider if the person is ill. The law enforcement officer would serve the person with a copy of the court order. If the person is represented by an attorney, then the law enforcement officer may consider asking the attorney to accept service for the person.

In the case of tuberculosis, the Commissioner of Public Health has the authority pursuant to MGL 111, c. 94A to apply for a court order for a long-term commitment, or to issue its own 15-day commitment order for immediate hospitalization to the state's TB Treatment Unit (TTU) at the Lemuel Shattuck Hospital. If a 15-day commitment order is issued and at the end of this period the patient continues to be unwilling or unable to accept treatment, the TTU must either release the patient or file a petition with the district court for the patient's long-term commitment. Once the

petition is filed, the TTU can detain the patient pending the disposition of the commitment petition.

FIRST RESPONDERS

Who will transport people to isolation and quarantine facilities if necessary?

Special transportation arrangements may not be necessary for people who need to be isolated or quarantined. If transportation arrangements are necessary, the local EMS provider, assisted by law enforcement personnel, may be asked to transport people.

If a person with infectious TB needs to be transported to the Tuberculosis Treatment Unit , M.G.L. c. 111, § 94A provides that the Commissioner of Public Health may call on the police department of the person's city or town to provide transportation.

Can an emergency response crew refuse to transport a person for the purposes of isolation?

EMS responders have a legal obligation under state Office of Emergency Medical Services (OEMS) protocols to transport any person who needs more advanced evaluation or care than they can provide on scene. During transport, they should follow the appropriate infection control precautions. Additionally, they should notify the receiving facility of the person's condition.

What is the legal requirement stating that all first responders must have a person designated for infection control activities?

The requirement comes from 105 CMR 171.223: Appointment of Designated Infection Control Officer.

DISEASE MONITORING

Who monitors to ensure that isolation and quarantine requirements are met?

Monitoring isolation and quarantine is the responsibility of the local board of health. Monitoring may involve home visits or telephone check-ins, or other mechanisms devised by the local board of health. If isolation and quarantine is occurring on a large scale, state and federal resources will assist in monitoring.

What happens or who is responsible if a disease crosses town lines or state lines?

If cases of disease or an outbreak occur in multiple towns, MDPH would be involved and would work with each local community to coordinate communication and logistics. If an outbreak crosses state lines, the other state health department would be notified, and MDPH would again be involved to coordinate communication and logistics.

Is personal protective equipment (PPE) available for local board of health staff?

Personal protective equipment, as needed, must be made available for local board of health staff and other personnel who are involved in isolation and quarantine activities. Equipment, training, and assistance may be available from local EMS agencies and hospital infection control staff. Also, as additional emergency preparedness funds are made available to local boards of health from MDPH, uses of the funding can include PPE equipment and training.

SCHOOL-RELATED

Who prevails should there be a dispute between the local school district and the local board of health regarding exclusion of non-immunized children during a disease outbreak?

The local board of health would prevail so long as its actions are consistent with state regulations governing isolation and quarantine. The Massachusetts Supreme Judicial Court has upheld the authority of local boards of health to exclude from school children who refuse to be vaccinated during a disease outbreak. Exclusion (quarantine) requirements for specific diseases are found in 105 CMR 300.000: Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements.

See legal memo, "The Power of MDPH to Require Immunization as a Condition for Entry into Schools and to Require Quarantine of Infectious or Susceptible Individuals During Times of Outbreak" at www.mass.gov/dph/cdc/epii/broadcast/memo_power_of_mdph_to_require_immunization.doc.

During an infectious disease outbreak, does the local board of health have the authority to close a school where there are children who have been diagnosed with the disease causing the outbreak?

Yes. Although there is no explicitly stated authority to close schools, the local board of health has broad authority to protect the public health under various laws. M.G.L. c. 111, § 104 provides that when a disease dangerous to public health exists in a town, the board of health shall "use all possible care to prevent the spread of the infection and may give public notice of infected places by such means as in their judgment may be most effectual for the common safety." Section 122 of chapter 111 requires the board to "examine into all . . . causes of sickness within its town," and to "destroy, remove or prevent the same as the case may require . . ."

Boards of health also recognize that local school officials have broad authority over the public schools. Under M.G.L. c. 71, § 59, the school superintendent has the responsibility to "manage the [school] system in a fashion consistent with state law and the policy determinations of the school committee." The school committee has "general charge and superintendence of the schoolhouses" under M.G.L. c. 71, § 68. The school committee and superintendent must operate the public schools for at least the minimum number of hours and days required by the state regulations on student learning time, 603 CMR 27.00, although they may request a waiver from the Commissioner and Board of Education for good cause, including emergency circumstances that force the closing of one or more schools. If schools must close for an extended period of time in order to comply with a state of emergency declared by the Governor, the Commissioner and Board of Education may determine that a blanket waiver is warranted. Each case will depend on the specific facts presented.

In light of the important responsibilities that local health officials and local school officials have under state law, the board of health should work with the school superintendent and any staff members the superintendent designates, such as the school health director, to develop a plan for communications and school closings when necessary for the protection of public health. Such a plan will enable local officials to provide a safe and orderly response during an infectious disease outbreak in a school.

Can transmission of a communicable disease, such as mumps, be prevented if a non-immunized, asymptomatic child wears a surgical mask at school?

Masks are not a practical or effective way to prevent the spread of diseases from the respiratory route on an "8 hours per day, 5 days per week" (often for several days or weeks) basis. Any time a person removes the mask to eat, drink, cough, wipe or blow their nose, they are infectious or potentially infectious. In addition, because some of these diseases are spread by direct contact, any time a potentially infectious person touched their respiratory secretions and inanimate objects they could contaminate those objects making them potential sources for transmission. The average person's lack of training in sterile technique as well as the age of some potentially infectious individuals are additional factors making a mask not effective.

Is a public school required to provide educational services to a student who is isolated or quarantined at home or in the hospital?

If a physician verifies in writing that a public school student (or a student who has been placed by the public school in a private setting) must remain at home or in a hospital for medical reasons for a period of not less than 14 school days in any school year, then under state regulation 603 CMR 28.03(3) (c), the school principal must arrange for provision of educational services to the student in the home or hospital. While the regulation does not require that the fourteen days be consecutive, it does require verification by a physician's written order. A question and answer guide on implementation of educational services in the home or hospital is available on the Department of Education website at http://www.doe.mass.edu/pqa/ta/hhep_qa.html. If a public health emergency compels a quarantine of many students for an extended period of time, the Department of Education would encourage local school officials to explore distance learning options and other alternatives that could help the students keep up with their schoolwork.

COSTS

Who pays for isolation and quarantine?

Most instances of isolation and quarantine involve few people and a relatively short period of time. In the rare instance of a large-scale event, disaster relief may be available. In general, isolation and quarantine costs are the responsibility of each city or town. Massachusetts General Law, Chapter 111, § 116 says that reasonable expenses incurred by local boards of health or the state are to be paid by the sick people, if they are able to pay; otherwise the city/town pays, or the state pays if the person is homeless.

Are individuals eligible for lost wages while isolated or quarantined?

A law dating from the 1800's requires local boards of health to compensate an isolated or quarantined wage earner up to $2.00 per day, which would obviously not provide reasonable compensation for lost wages in the twenty-first century. Depending on the person's employment arrangements, he or she may be able to use sick time, vacation time, personal leave, etc.

Can an isolated or quarantined person sue for loss of income, pain and suffering?

Questions about individual and municipal liability associated with isolation and quarantine are best answered by your town attorney. In general, an individual will not succeed in a lawsuit if the board acted reasonably, based on sufficient facts, and in accordance with established procedures. Local boards of health should only impose isolation or quarantine if they have reasonable grounds to believe that the isolation or quarantine is necessary and is the least restrictive measure to protect public health under the circumstances. Having local isolation and quarantine regulations is helpful because these will specify the particular procedures that the local authorities will follow in imposing isolation or quarantine requirements. The Joseph Barbera article, "Large-Scale Quarantine Following Biological Terrorism in the United States. Scientific Examination, Logistic and Legal Limits, and Possible Consequences," listed at the end is a recommended reference.

PRIVACY RULE

Does the HIPAA Privacy Rule prevent access to case information by local boards of health when they need it for isolation and quarantine?

No. The Health Insurance Portability and Accountability Act (HIPAA) was never intended to impact public health activities such as surveillance, disease investigation, reporting of cases and contacts, and implementation of isolation and quarantine. You may need to educate health care providers to let them know that they are not violating HIPAA when releasing case information and do not need an individual's authorization. The MDPH, Division of Epidemiology and Immunization has developed two letters to clarify the HIPAA Privacy Rule. To obtain copies, you can call (617) 983-6800 or go through the MDPH website at: http://www.state.ma.us/dph/cdc/epii/reportable/reportable.htm

RESOURCES

Where can I get more information about isolation and quarantine?

MDPH, Division of Epidemiology and Immunization, at (617) 983-6800
MDPH, Division of Tuberculosis Prevention and Control, at (617) 983-6970

Websites:

- MDPH website, www.state.ma.us/dph
- Massachusetts General Laws, Table of Contents for Chapter 111, www.mass.gov/legis/laws/mgl/gl-111-toc.htm (the more pertinent sections are 6, 7, 94A -94H (for TB), 95, 96, 97, 104, 111)
- Centers for Disease Control and Prevention (CDC) website, www.cdc.gov/ncidod/dq/
- PSB documentary on Typhoid Mary, www.pbs.org/wgbh/nova/typhoid/

Journal Articles:

- CDC, "Postexposure Prophylaxis, Isolation and Quarantine to Control an Import-Associated Measles Outbreak—Iowa, 2004," at: www.cdc.gov/mmwr/preview/mmwrhtml/mm5341a3.htm
- Barbera, Joseph. "Large-Scale Quarantine Following Biological Terrorism in the United States. Scientific Examination, Logistic and Legal Limits, and Possible Consequences." JAMA. December 5, 2001, Volume 286, No. 21, pp. 2711-2717.
- Gostin, L. "Public Health Law in a New Century, Part II: Public Health Powers and Limits." JAMA. June 14, 2000, Vol. 283, No. 22, pp. 2895-3030.

Reports and Books:

- American Bar Association, State and Local Government Law Section. "Draft Checklist for State and Local Government Attorneys to Prepare for Possible Disasters." Compiled by the Task Force on Emergency Management and Homeland Security, March 2003. Available at: www.abanet.org/statelocal/disaster.pdf.
- Institute for Bioethics, Health Policy and Law, University of Louisville School of Medicine. "Quarantine and Isolation: Lessons Learned from SARS." A Report to the Centers for Disease Control and Prevention, November 2003. Available at: www.louisville.edu/medschool/ibhpl/.
- Markel, Howard. Quarantine! East European Jewish Immigrants and the New York City Epidemics of 1892. The John Hopkins University Press, 1997.

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